

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30005  
LANSING, MICHIGAN 48909

BILL SCHUETTE  
ATTORNEY GENERAL

June 6, 2018

Schmidt Family Vineyards, LLC  
d/b/a Schmidt Family Vineyards  
c/o Calvin Schmidt & Judy Schmidt  
242 Missouri Flat Rd.  
Grants Pass, OR 97527

RE: Cease and Desist Unlicensed Direct Shipping of Alcoholic Liquor

Dear Sir or Madam:

This office has confirmed that Schmidt Family Vineyards, LLC d/b/a Schmidt Family Vineyards at 242 Missouri Flat Road, Grants Pass, OR 97527, has been directly shipping wine into the State of Michigan despite not possessing a direct shipping license. This conclusion arises from the business's ongoing practice of receiving money from customers in exchange for direct shipments of alcoholic liquor, contrary to the Michigan Liquor Control Code of 1998 (Liquor Code) and administrative rules. See MCL 436.1101, et seq. Accordingly, the business and anyone affiliated with its operation, as well as the building's owner and lessee, are ordered to cease this illegal activity or face possible criminal charges.

Specifically, the parties mentioned above must cease and desist their ongoing practice of selling, furnishing, or shipping alcoholic liquor to paying customers. This activity violates the Liquor Code and constitutes criminal activity. According to MCL 436.1909(3), any person who "performs any act for which a license is required under this act without first obtaining that license or who sells alcoholic liquor in a county that has prohibited the sale of alcoholic liquor . . . is guilty of a felony punishable by imprisonment for not more than 1 year or by a fine of not more than \$1,000.00 or both." Activities that constitute selling, delivering or importing in excess of 80,000 ml of alcoholic liquor constitute a felony punishable by imprisonment of not more than 4 years or a fine of not more than \$5,000.00 or both." MCL 436.1909(4)(a).

The U.S. Constitution, in the 21<sup>st</sup> amendment, reserves the right to control alcoholic beverages to the individual states and each state has their own system of licensing, taxation, and regulation to prevent unauthorized sales. See, U.S. Const Amend XXI, see also 1963 Const Art. IV, §40. The Michigan Legislature has

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established a system of licensing, taxation and enforcement standards, which the Michigan Liquor Control Commission (MLCC) is responsible for implementing. The essence of such a control system is the fact that alcoholic beverages, while legal, are controlled substances which are susceptible to misuse or abuse. Liquor licensees, who are authorized to sell alcoholic beverages, are directly accountable to the MLCC. If you wish to become licensed by the MLCC as a direct shipper so that you can legally sell or furnish alcoholic liquor within the State of Michigan, please contact the MLCC to obtain information on how to become a licensed entity. But unless and until the above business becomes licensed, it is engaging in illegal activity.

Schmidt Family Vineyards, LLC is also violating the Consumer Protection Act (CPA) by promoting and falsely representing to the public that its business is legal. Section 3 of the CPA, MCL 445.903(1)(a), prohibits representations that cause a probability of confusion or misunderstanding as to their approval. A persistent and knowing violation of this law may result in a court assessing a civil penalty of \$25,000, along with costs and attorney fees, in favor of the Attorney General. See MCL 445.905.

The statutes and possible legal actions stated in this letter are by no means exhaustive; this letter is intended only to place Schmidt Family Vineyards, LLC and persons affiliated with its operation, including the owner and lessee of the premises where it is located, on notice that the business is violating the laws prohibiting unlicensed individuals from the direct shipment of alcoholic liquor. If this activity fails to cease within 14 days of your receipt of this letter, our office will take legal action to stop it. This may include filing criminal charges.

Sincerely yours,



Donald S. McGehee  
Division Chief  
Alcohol and Gambling Enforcement Division  
(517) 241-0210  
Fax: (517) 241-1074